

REMARKS

The Examiner has rejected claims 18 and 20 - 35 under 35 U.S.C. §103(a) as unpatentable over Kilgour et al., U. S. 5,760,116. The Examiner has cited Graham v. John Deere Co. as providing guidance in establishing obviousness. Graham v. John Deere Co., 383 U.S. 1, 148 U.S. P. Q. 459 (1966).

This rejection is respectfully traversed for the following reasons. Applicants respectfully submit that the Examiner has failed to ascertain the differences between the prior art and the claims at issue as required by Graham v. John Deere. In concluding a rejection based solely on the particular gel and teachings of the Kilgour reference, the Examiner states: "[t]he expected result would be a cosmetic composition comprising a silicone gel mixed with a second silicone and a colored material." This analysis ignores the concluding phrase of Applicants' independent claims, claims 18 and 27, which both recite "whereby said colored cosmetic composition is transfer resistant." Further, the Kilgour reference nowhere teaches or discusses transfer resistance in colored cosmetic compositions, it is totally silent regarding transfer resistance. For these reasons Applicants respectfully submit that the Examiner has not made out a *prima facie* case for obviousness. Withdrawal of these grounds of rejection is respectfully requested.

Accordingly a Notice of Allowance for claims 18 and 20 - 35 appears to be next in order and is respectfully solicited.

Respectfully submitted:



Kenneth S. Wheelock
Attorney for Applicants
Registration No. 36,340
Telephone No. (413) 448-4606

GENERAL ELECTRIC CO
One Plastics Avenue
Pittsfield, MA 01201
Dec. 16, 2004
KSW